

ORDINANCE NO. 2000-33
COUNTY OF CONTRA COSTA
FLOODPLAIN MANAGEMENT ORDINANCE

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance repeals Ordinance No. 99-35 (Chapter 82-28 of the County Ordinance Code) on Floodplain Management and replaces it with the revised Floodplain Management Ordinance as Chapter 82-28 of the County Ordinance Code.

CHAPTER 82-28 FLOODPLAIN MANAGEMENT ORDINANCE

ARTICLE 82-28.2 GENERAL

SECTION II. CHAPTER 82-28 is added to the County Ordinance Code to read:

82-28.202 STATUTORY AUTHORIZATION. This ordinance is designed to promote the public health, safety and general welfare of the citizens of Contra Costa County and is enacted pursuant to the authority of 42 United States Code Sections 4001-4128; see especially 42 U.S.C. Section 4022; Government Code Sections 25120-25132; Title 44 of the United States Code of Federal Regulations at Section 60.3, (and "all applicable associated" Technical Bulletins); Health and Safety Code Section 450; and California Constitution, Article XI, Section 7 and Government Code Sections 65302, 65560 and 65800. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.204 FINDINGS OF FACT.

- (1) The Special Flood Hazard Areas (SFHA) of Contra Costa County are areas subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by inadequate drainage facilities and the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities. These losses may result when structures are inadequately anchored, elevated, flood proofed or protected from flood damage.
- (3) Contra Costa County has experienced serious flooding, which has resulted in substantial property damage and the potential for loss of life. Adoption of a legally enforceable floodplain management ordinance which fully complies with the recently revised rules of the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA) will allow Contra Costa County

to continue its participation in the NFIP. The continued participation of the County in the NFIP is desirable and promotes the public health, safety and welfare in that it provides insurance and federal assistance in the event of flood(s) within the County's jurisdiction. In the absence of such insurance, the County's vulnerability to damage and loss resulting from flood events may be substantial and potential flood damage represents an immediate threat to the public health, safety and welfare. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45.)

82-28.206 STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions during flooding;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines and streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the use and development of areas of special flood hazard subject to review by permit and application of flood damage reduction standards so as to minimize future flood blight areas;
- (7) To provide information to the general public regarding special flood hazard areas in the unincorporated areas of the County;
- (8) To clearly establish that those who occupy the areas of special flood hazard should assume responsibility for their actions and the losses they may suffer; and
- (9) To ensure that potential buyers are notified if property is in an area of special flood hazard. (Ords. 2000-33, 96-11, 90-118, 88-50, 87-45)

82-28.208 METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purpose, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting land uses that create a danger to health, safety and property due to water inundation or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Requiring that land use areas vulnerable to floods be protected against flood damage at the time of initial construction including facilities such as utilities, which serve them;

- (3) Requiring that the design of streets and public access facilities include consideration of accessibility under the base flood conditions for emergency service vehicles and any rescue and relief operations;
- (4) Controlling and limiting the alteration of natural floodplains, stream channels and natural protection barriers that help accommodate or channel flood waters;
- (5) Controlling filling, grading, dredging and other development which may increase flood damage;
- (6) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards in other areas.
- (7) Requiring orderly development of drainage facilities within watershed areas as development occurs;
- (8) Recognizing the importance and beneficial functions of natural floodplains; and
- (9) Requiring that all new construction and substantial improvements within floodplains be constructed in such a manner that flood damage will be minimized. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

ARTICLE 82-28.4 and 28.5 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

82-28.402 “Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or decision on a request for a variance. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.404 “Area of shallow flooding” means a designated AO, AH or VO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.406 “Base flood elevation (BFE)” means the elevation above “mean sea level” to which the base flood will rise as determined by FEMA or the Floodplain Administrator. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.408 “Base flood” means a flood having a 1% chance of being equaled or exceeded in any given year (also called the “100-year flood”). (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.410 “Basement” means any area of the building having its floor subgrade (below ground

level) on all sides. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.412 "Breakaway walls" are any type of walls, whether solid or lattice and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material that is not part of the structural support of the building and that is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.414 "Building Permit" shall mean a: Building Permit, Plumbing Permit, Electrical Permit or Mechanical Permit issued by the Contra Costa County Building Inspection Department. (Ords. 2000-33, 99-35, 96-11)

82-28.416 "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is the area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a FIRM as Zone VI-V30, VE or V. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.418 "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations and storage of equipment or materials. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.420 "Encroachment" means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain. (Ord. 2000-33, 99-35)

82-28.422 "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets are completed on or before the effective date of this ordinance. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.424 "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads or the construction of streets. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.426 "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of flood waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature such as flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event that results in flooding as defined in this definition. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.428 "Flood Boundary and Floodway Map" means the official map described in Section 82-28.604 on which the FEMA or FIA has delineated both the areas of flood hazard and the floodway. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.430 "Flood Insurance Rate Map (FIRM)" means the official map described in Section 82-28.604 on which the FEMA or FIA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.432 "Flood Insurance Study" means the official report described in Section 82-28.604 provided by the FIA that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and in some areas, the base flood elevation. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.434 "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source (See definition of "flood or flooding"). (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.436 "Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.438 "Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control work and floodplain management regulations. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.440 "Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control regulations) and other applications of the police power that control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof that provide standards for preventing and reducing flood loss

and damage. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.442 "Floodplain permit" means a permit required of all development which occurs in any area designated by FEMA as a SFHA and as required by the Floodplain Administrator. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.444 "Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to non-residential structures that eliminate flood damage to real estate or improved real property, water and sanitary facilities and non-residential structures and their contents. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.446 "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.30 meters (one foot). The floodway shall be as designated on the FIRMS and/or as designated by the Floodplain Administrator whether or not a Floodplain is shown on the FIRM. Also referred to as "Regulatory floodway." (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.448 "Flood resistant" means any combination of structural and nonstructural additions, changes or adjustments to structures that reduces flood damage, generally allowing flood waters to enter and exit the building without causing any significant damage to the structures or their contents. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.450 "Flood resistant materials" means any building material capable of withstanding direct and prolonged (at least 72 hours) contact with flood waters without sustaining significant damage (any damage requiring more than low-cost cosmetics repair-such as painting). Acceptable materials are specified in "Technical Bulletins" and/or as approved by the Floodplain Administrator. (Ord. 2000-33, 99-35)

82-28.452 "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding. (Ord. 2000-33, 99-35)

82-28.454 "Flood-related erosion area" or "Flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage. (Ord. 2000-33, 99-35)

82-28.456 "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control work and floodplain management regulations. (Ord. 2000-33, 99-35)

82-28.458 "Floodway fringe" means that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted. (Ord. 2000-33, 99-35)

82-28.460 "Fraud and victimization" as related to Section 6, **Variances**, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Zoning Administrator will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates. (Ord. 2000-33, 99-35)

82-28.462 "Freeboard" means a factor of safety usually expressed in feet above a base flood elevation for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.464 "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. (The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.) (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.466 "Governing body" is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry. (Ord. 2000-33, 99-35)

82-28.468 "Hardship," as used in Section 82-28.516, variances, of this ordinance means, the **exceptional** hardship that would result from a failure to grant the requested variance. The County requires that the variance be exceptional, unusual and peculiar to the property involved. Mere economic or financial hardship alone is **not** exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of ones neighbors cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive or requires the property owner to build elsewhere or put the parcel to a different use than originally intended. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.470 "Highest adjacent grade" means the highest natural (i.e. undisturbed) elevation of the ground surface prior to construction next to the proposed walls of a structure. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.472 "Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of Interior to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.474 "Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided**, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance. (Note: This definition allows attached garages to be built at grade (with adequate venting). Below grade garages are not allowed as they are considered to be basements.) (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.476 "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days and neither continuously licensed nor "road ready." (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28-478 "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28-479 "Market Value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical condition but shall not include economic or other forms of external obsolescence. Use of replace costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences. (Ord. 2000-33, 99-35)

82-28.480 "Mean sea level" means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's FIRM are referenced. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.482 “New construction” for floodplain management purposes, means structures for which the "start of construction" commenced on or after (July 16, 1987) the effective date of Contra Costa County's Floodplain Management Ordinance, and includes any subsequent improvements to such structures. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.484 “Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.486 “One hundred year flood” or “100-year flood” means a flood which has a one percent annual probability of being equaled or exceeded. (Also called the "base flood,") (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.488 “Person” means an individual or his agent, firm, partnership, association or corporation, or any agent of the aforementioned groups, or this state, its agencies or political subdivisions. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.490 “Public safety and nuisance” as related to, “Variances,” of this ordinance means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin. (Ord. 2000-33, 99-35)

82-28.492 “Reconstruction” means to perform major construction or modifications to an existing structure, that makes the existing structure like or better than new. Reconstruction does not cover normal or routine maintenance unless otherwise specified in Section 82-28.472. (Ord. 2000-33, 99-35, 96-11)

82-28.494 “Recreational Vehicle” means a vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. (Ord. 2000-33, 99-35)

82-28.496 “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.30 meter (one-foot). (Ord. 2000-33, 99-35)

82-28.498 “Remedy a violation” means to bring the structure or other development into compliance

with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.500 "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.502 "Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.504 "Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards and shown on FIRM as Zone A, AO, A1-30, A99, AH, VO, V1-30 or V. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82.28 506 "Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement or foundations, or the erection of temporary forms, the footings, piers, or installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.508 "Structure" means a walled and roofed building, or manufactured home, including a gas or liquid storage tank, that is principally above ground. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.510 "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ord. 2000-33, 99-35)

82-28.512 "Substantial improvement" means any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed.

The percentage figure shall be added to any successive building permits that may be issued or have been issued within a contiguous 10-year span. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not,

however, include:

- (1) Any project for improvement of a structure to comply (not required because of flood damage) with existing state or local health, sanitary or safety code specifications which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an "Historic Structure," provided that the alteration, will not preclude the structures continued designation as an "historic structure." (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.514 "Technical Bulletin" means Bulletins developed by the Federal Emergency Management Agency (FEMA), the California Department of Water Resources (CA DWR) or the Floodplain Administrator. These Bulletins clarify specific requirements of Federal, State or local laws pertaining to Floodplain Management. (Ord. 2000-33, 99-35)

82-28.516 "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance. (See "Hardship") (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.518 "Violation" means the failure of a structure or other development to be in compliance with this ordinance. (A structure or other development without an elevation certificate, other certifications or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.) (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.520 "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2000-33, 99-35)

82-28.522 "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 2000-33, 99-35)

ARTICLE 82-28.6 GENERAL PROVISIONS

82-28.602 LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Contra Costa County, as shown on the maps described in Section 82-28.604. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.604 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard have been identified by FEMA or the FIA in a scientific and engineering report entitled "Flood Insurance Study for Contra Costa County, Unincorporated Areas," dated July 16, 1987, with accompanying FIRM and Flood Boundary and Floodway Map of same date and all subsequent amendments and/or revisions, which study and maps are hereby adopted by reference and declared to be a part of this ordinance. This Flood Insurance Study and accompanying maps are on file at the Contra Costa County Public Works Department, 255 Glacier Drive, Martinez.

This Flood Insurance Study is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended by the Floodplain Administrator. Within the areas of special flood hazard identified in the Flood Insurance Study, accompanying maps and supplemental studies, freeboard is required. In the San Francisco Bay Delta Estuarine Region, 0.61 meters (two feet) of freeboard is required. In all other unincorporated areas of the County, 0.30 meters (one foot) of freeboard is required. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.606 COMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute an infraction punishable as provided in Government Code Section 25132. Nothing herein shall prevent the Contra Costa County Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.608 ABROGATION AND GREATER RESTRICTIONS. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.610 INTERPRETATION. In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the County; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.612 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County, any officer or employee thereof or the FIA, for any flood damages that result from reliance on this ordinance or any administrative decision made thereunder. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.614 SEVERABILITY. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

ARTICLE 82-28.8 ADMINISTRATION

82-28.802 ESTABLISHMENT OF FLOODPLAIN PERMIT. A Floodplain Permit shall be obtained from the Contra Costa County Public Works Department before construction, and prior to issuance of a Grading Permit or Building Permit, or commencement of development on any property within any area of special flood hazards established in Section 82-28.604. Application for a Floodplain Permit shall be made on forms furnished by the Floodplain Administrator, in the Public Works Department of Contra Costa County and may include, but not be limited to: plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question; and the location of existing or proposed structures, fill, storage of materials, drainage facilities or other development defined in this ordinance. Specifically, the following information is required:

- (1) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures. In Zone AO or VO, elevation of highest adjacent grade, and proposed elevation of lowest floor of all structures;
- (2) Proposed elevation, in relation to mean sea level, to which any structure will be floodproofed;
- (3) All appropriate certifications listed in Section 82-28.806;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (5) Description of the extent to which grading is proposed within the SFHA. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.803 DEVELOPMENT PERMIT APPLICATION. Prior to a Variance Permit, Land Use Permit, Development Plan Permit or Tentative Map Application being deemed complete on any property within any area of Special Flood Hazards established in Section 82-28.604, an applicant must provide verification from the Floodplain Administrator that the required Flood Zone, BFE and minimum finished floor elevation has been determined. (Ord. 2000-33, 99-35, 96-11)

82-28.804 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. The Public Works Director of Contra Costa County shall be the Floodplain Administrator but may designate a person under his supervision (chiefly the Floodplain Manager) to administer and implement this ordinance by granting or denying Floodplain Permits in accordance with its provisions. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.806 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) **Review Permits**

- (a) Review all Floodplain Permits to determine that the permit requirements of

this ordinance have been satisfied;

- (b) Review written statements required to be submitted by each applicant that all other required State and Federal permits have been obtained;
 - (c) Review Floodplain Permits for compliance with FEMA requirements for elevation of structures above the floodplain plus freeboard; and
 - (d) Review Floodplain Permits for compliance with FEMA requirements so that the proposed development does not adversely affect the carrying capacity of the floodway. For purposes of this ordinance, "adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than 0.30 meters (one foot) at any point.
- (2) **Use of Other Base Flood Elevation Data.** When base flood elevation data has not been provided in accordance with Section 82-28.604, the Floodplain Administrator shall require, obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 82-28.10. Generally speaking, consisting of more than 10 new insurable structures will be required to determine the base flood elevation by developing a detailed hydrology and hydraulic study, including but not limited to, a back water analysis. Developments of 10 or fewer insurable structures will be required to determine the base flood elevation using standards acceptable to the Floodplain Administrator.
- (3) **Notify Agencies of Watercourse Alteration or Relocation.** When a watercourse is to be altered or relocated, the Floodplain Administrator shall notify the Contra Costa County Flood Control and Water Conservation District, adjacent communities and the California Department of Water Resources prior to such alteration or relocation of the watercourse, send copies of such notice to the FIA, and require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- (4) **Maintain Records.** The Floodplain Administrator shall be provided with, and shall maintain, the following records:
- (a) The certification required in Section 82-28.1002(3) (a) (floor elevations);
 - (b) The certification required in Section 82-28.1002(3) (b) (elevations in areas of shallow flooding);
 - (c) The certification required in Section 82-28.1002(3) (d) (iii) (elevation of floodproofing of nonresidential structures);
 - (d) The certification required in Section 82-28.1002(3) (d) (i) or 82-28.1002(3) (d) (ii) (wet floodproofing standard);

- (e) The certification of elevation required in Section 82-28.1006(2) (subdivision standards);
 - (f) The certification required in Section 82-28.10-28.1010 (floodway encroachments); and
 - (g) The information required in Section 82-28.1012(6) (coastal construction standards).
- (5) **Determination of Boundaries.** The Floodplain Administrator may make interpretations where needed, about the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between mapped boundaries and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 82-28.12.
- (6) **Remedy Violations.** The Floodplain Administrator may take appropriate action to remedy violations of this ordinance as specified in Section 82-28.606, with the assistance of the Code Enforcement Officer. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.808 "Appeals" The Board of Supervisors of Contra Costa County shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance. (Ord. 2000-33 and 99-35)

ARTICLE 82-28.10 PROVISIONS FOR FLOOD HAZARD REDUCTION

82-28.1002 STANDARDS OF CONSTRUCTION. In all areas of special flood hazards, the following standards are required:

- (1) **Anchoring.**
 - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (b) All manufactured homes shall meet the anchoring standards of Section 82-28.1008.
- (2) **Construction Materials and Methods.**
 - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction and substantial improvements shall be constructed using

methods and practices that minimize flood damage.

- (c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (d) In Zones AH, AO or VO, adequate drainage paths around structures. To guide floodwaters around and away from proposed structures shall be constructed.

(3) Elevation and Floodproofing.

- (a) New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation plus required freeboard. In the San Francisco Bay Delta Estuarine Region, 0.61 meters (two feet) of freeboard is required. In all other unincorporated areas of the County, 0.30 meters (one-foot) of freeboard is required. Nonresidential structures may meet the standards in Section 82-28.1002(3)(c). Upon the completion of the substructure but prior to completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.
- (b) New construction and substantial improvement of any structure in Zone AH, AO or VO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in meters (feet) on the FIRM plus required freeboard, or at least 0.61 meters (two feet) if no depth number is specified. In the San Francisco Bay Delta Estuarine Region, 0.61 meters (two feet) of freeboard is required. In all other unincorporated areas of the County, 0.30 meters (one-foot) of freeboard is required. Nonresidential structures may meet the standards in Section 82-28.10-28.1002(3)(c). Upon the completion of the substructure but prior to completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, or verified by the building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.
- (c) If the difference in elevation between the lowest floor and the ground below the lowest floor is 2 meters (6.6 feet) or greater, the applicant will provide the Floodplain Administrator with a Deed restriction. This Deed restriction will be recorded and will run with the property (not the applicant). This restriction will limit the area below the lowest floor to be used only for building access, storage and parking of vehicles and will not allow this area to be developed into habitable space.

- (d) Nonresidential construction shall either be elevated in conformance with Section 82-28.1002 (3)(a) or (b), or together with attendant utility and sanitary facilities:
 - (i) Be floodproofed so that below the base flood level plus freeboard, the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (iii) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator;
 - or-
 - (iv) The Floodplain Administrator may allow the non residential structure to be made "flood resistant." Flood resistant structures shall comply with section 82-28.1002. (3)(e).
- (e) For all new construction and substantial improvements, with fully enclosed areas below the lowest floor, (excluding basements) that are usable solely for parking of vehicles, building access or storage, and are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) Have a minimum of two openings with a total net area of not less than 6.45 square centimeters (one square inch) for every 0.09 square meters (one square foot) of enclosed area subject to flooding. The bottom of all openings shall be no higher than 0.3 meter (one foot) above grade. (Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters).
- (4) Manufactured homes shall also meet the standards in Section 82-28.1008. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1004 STANDARDS FOR UTILITIES.

- (1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.
- (2) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. All septic tanks shall be adequately anchored to resist flotation, collapse or lateral movement.

- (3) On-site water supply systems shall be located to avoid impairment to them or contamination of them during flooding. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1006 STANDARDS FOR SUBDIVISIONS.

- (1) All applications for tentative map approval are incomplete unless the Tentative Maps identify the flood hazard area and the elevation of the base flood. (See section 82-28.806(2))
- (2) All final subdivision improvement plans shall provide the elevation of proposed structure(s), pads and streets. If the site is filled above the base flood, the final pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- (3) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (4) All subdivision proposals shall have public utilities and facilities such as road, sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1008 STANDARDS FOR MANUFACTURED HOMES.

- (1) All manufactured homes to be placed or substantially improved within Special Flood Hazard Areas (Zones A1-30, and AH), as shown on the study and maps described in Section 82-28.604, shall:
 - (a) Be elevated and anchored to a foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, plus required freeboard. In the San Francisco Bay Delta Estuarine Region, 0.61 meters (two feet) of freeboard is required. In all other unincorporated areas of the County, 0.30 meters (one-foot) of freeboard is required; and
 - (b) Be securely anchored to an adequately designed foundation system to resist flotation, collapse or lateral movement in accordance with California Health and Safety Code Sections 18613.4 or 18551.
- (2) Section 82-28.1008(1) shall apply to:
 - (a) Manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision;
 - (b) Manufactured homes to be placed or substantially improved outside of a manufactured home park or subdivision; and

- (c) Manufactured homes to be placed in a manufactured home park or subdivision established on or after the effective date of this ordinance.
- (3) Section 82-28.1008(1)(a) shall not apply to manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision, except:
- (a) Where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of the streets, utilities and pads before the repair, reconstruction or improvement is commenced; or
 - (b) The manufactured home has incurred "substantial damage" as a result of a flood. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1009 STANDARDS FOR RECREATIONAL VEHICLES.

- (1) All recreational vehicles placed on sites within a Special Flood Hazard Area (Zones A1-30, AH, and AE) on the FIRM shall:
 - (a) Be on the site for fewer than 180 consecutive days; or
 - (b) Be fully licensed, insured and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or integral jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - (c) Meet the permit requirements of Section 82-28.802 and the elevation and anchoring requirements for manufactured homes in Section 82-28.1008. (Ords. 2000-33, 99-35, 96-11)

82-28.1010 FLOODWAYS. Within special flood hazard areas established in Section 82-28.604 are areas designated as floodways. A floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles and the potential for erosion. Floodways may or may not be specifically designated on the FIRM maps, their existence will be as determined by the Floodplain Administrator. Encroachments, including fill, new construction, substantial improvements and other development are not allowed in a floodway unless certification by a registered professional engineer is provided demonstrating that the encroachment(s) shall not result in any increase in flood levels during the occurrence of the base flood discharge. Allowed new construction and improvements shall comply with all applicable flood hazard reduction provisions of Article 82-28.10. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1012 COASTAL HIGH HAZARD AREAS. Within coastal high hazard areas established in Section 82-28.604, the following standards shall apply:

- (1) All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation plus required

freeboard. In the San Francisco Bay Delta Estuarine Region 0.6 meter (two feet) of freeboard is required. In all other unincorporated areas of the County, 0.3 meter (one foot) of freeboard is required. The pile or column foundation, and structure attached hereto, shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood plus freeboard. Wind loading values used shall be those required by applicable State or local building standards.

- (2) All new construction shall be located on the landward side of the reach of mean high tide.
- (3) All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.
- (4) Fill shall not be used for structural support of buildings.
- (5) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- (6) The Floodplain Administrator shall obtain and maintain the following records:
 - (a) Certification by a registered engineer or architect that a proposed structure complies with Section 82-28.1012(1); and
 - (b) The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures; and whether such structures contain a basement. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

ARTICLE 82-28.12 VARIANCE PROCEDURE

82-28.1201 NATURE OF VARIANCES. The variance criteria set forth in this article are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

It is the duty of the County to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. (The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in the ordinance are more detailed

and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate). (Ords. 2000-33, 99-35, 96-11)

82-28.1202 APPEAL PROCESS

- (1) The Zoning Administrator of Contra Costa County shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (2) The Zoning Administrator shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) In passing upon such applications, the Zoning Administrator shall consider all technical evaluations, all relevant factors and standards as specified in this ordinance, and all other relevant factors including, but not limited to the following:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the owner and future owners of the property and the community;
 - (d) The importance of the services provided by the proposed facility to the community, where applicable;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities

such as sewer, gas, electrical, water systems, streets and bridges.

- (4) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items 82-28.1202(3) factors have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance will increase.
- (5) Upon consideration of the factors of Section 82-28.1202(3) and the purposes of this ordinance, the Zoning Administrator may attach such conditions to the granting of variances as deemed necessary to further the purposes of this ordinance.
- (6) Appeals from Zoning Administrator decisions may be made in the time and manner provided in Contra Costa County Ordinance Code Article 26-2.24 to the Planning Commission and Board of Supervisors upon payment of prescribed fees.
- (7) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances granted to the FIA upon request. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

82-28.1204 CONDITIONS FOR VARIANCES

- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of "Historic Structures" upon a determination that the proposed restoration or rehabilitation will not preclude the structures continued designation as an historic structure and the minimum necessary variance is to preserve the historic character and design of the structure without regard to the procedures set forth in the remainder of this section.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (5) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Section 82-28.1204(1) - (4) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (6) Any applicant to whom a variance is granted shall be given written notice over the signature of the Floodplain Administrator that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in significantly increased premium rates for flood insurance. Insurance premiums as high as \$25 for \$100 of insurance coverage are possible; and
 - (b) Such construction below the base flood level increases risks to life and property. It is required that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ords. 2000-33, 99-35, 96-11, 90-118, 88-50, 87-45)

SECTION III. REPEAL. Ordinance 99-35 is hereby repealed because it is replaced by Section II of this ordinance.

SECTION IV. EFFECTIVE DATE. This ordinance shall become effective 30 days after passage, and within 15 days of passage, this ordinance shall be published once, with the names of the Supervisors voting for and against it, in the *Contra Costa Times*, a newspaper of general circulation published in this county.

PASSED AND ADOPTED ON December 12, 2000 by the following vote:

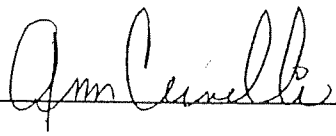
AYES: Supervisors Gioia, Uilkema, DeSaulnier and Gerber

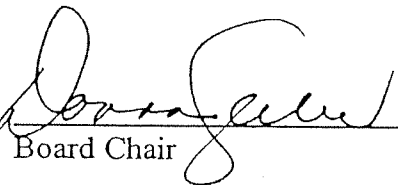
NOES: None

ABSENT: District V Seat Is Vacant

ABSTAIN: None

ATTEST: PHIL BATCHELOR, Clerk of
the Board of Supervisors and County
Administrator.

By: , Deputy


Board Chair

RL:mw:kw:lap

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Rev 4 October 24, 2000

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